

FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Perkins
Coie

Robert F. Bauer
Rebecca H. Gordon
PHONE: (202) 628-6600
FAX: (202) 434-1690
EMAIL: RBauer@perkinscoie.com
RGordon@perkinscoie.com

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607 Fourteenth Street N.W.
Washington, D.C. 20005-2003
PHONE: 202.628.6600
FAX: 202.434.1690
www.perkinscoie.com

January 29, 2009

BY HAND

Jeff S. Jordan
Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 F Street, N.W.
Washington, D.C. 20463

Re: MUR #142

Dear Mr. Jordan:

We are writing this letter on behalf of Obama for America (the "Committee") and Martin Nesbitt, as treasurer, (collectively referred to as the "Respondents") in response to the Complaints filed in the above-referenced matter by Luanne Moore, Elizabeth Medeiros, Heather F. Lindsay, Barbara Paglia, Mary Norton, Carol A. Adams, Nora Widener, Pamela M. Scola, Lia Talmas, Jeanne Park, and Suzanne L. Martin (the "Complainants"). For the reasons set forth below, the Complaints are without merit and should be dismissed.

The Complaints allege that Respondents have violated the Federal Election Campaign Act (the "Act") by knowingly accepting excessive contributions from individuals, and by misreporting disbursements from the Committee to various state party committees. They have not.

Respondents have acted in full compliance with the Commission's requirements at all times. The Commission may find "reason to believe" only if a complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the Act. See 11 C.F.R. § 111.4(a), (d). Here, the Complaints present no evidence to suggest that

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Respondents have ever knowingly solicited, accepted, or received excessive contributions. In addition, all disbursements made by the Committee to various state party committees were reported appropriately on line 29 of the Committee's reports. The Commission therefore may not find "reason to believe," and must dismiss the Complaints immediately.

Obama for America was the principal campaign committee for President Barack Obama's campaign for President. The volume of contributions the Committee raised, both online and through more traditional means, is unprecedented for a political campaign. To process them all, the Committee designed – in the extraordinarily short amount of time afforded it at the beginning of a two-year election-cycle – a remarkably complex and nimble vetting and compliance system. This system met and surpassed the procedural requirements the Act and Commission regulations impose on the collection and processing of contributions. Most importantly, it ensured that the Committee did not knowingly accept contributions in excessive amounts.

The Complaints present no evidence to suggest that the Committee did not act in full compliance with the Commission's requirements. Because the Complaints allege no actual conduct by Respondents that violates a statute or regulation over which the Commission has jurisdiction, the Complaints are without legal merit and should be dismissed.

FACTUAL AND LEGAL ANALYSIS

A. Comprehensive Vetting and Compliance Procedures

Before the Committee launched its fundraising program, the Committee carefully developed and implemented comprehensive vetting and compliance procedures to ensure that it did not knowingly solicit, accept, or receive prohibited contributions. Pursuant to this system, and consistent with the Commission's regulations, campaign staff and outside vendors were tasked with examining all contributions to the Committee once they were received – whether online, through direct mail, in person, or otherwise – for "evidence of illegality and for ascertaining whether contributions received, when aggregated with other contributions from the same contributor, exceed[ed]" federal contribution limits. 11 C.F.R. § 103.3(b). Any contributions made to the Committee that were found to be excessive were promptly refunded in accordance with the Commission's regulations.

The Committee's compliance and vetting procedures included an extensive back-end process to ensure it caught and refunded any excessive or otherwise unlawful contributions. As the volume of contributions to the Committee increased during the course of the campaign, the Committee continuously adjusted its vetting and compliance procedures to adapt to the increased volume. At regular intervals, the Committee conducted automated searches of its donor database – including all contributions, whether raised online or not – to identify any excessive donations. Contributions from repeat donors were examined to ensure that the total amount received from a single donor did not exceed the contribution limits.

After President Obama secured the Democratic nomination, the Obama Victory Fund was established as a joint fundraising committee for the Committee and the Democratic National Committee. Pursuant to the Commission's regulations, contributions received by the Obama Victory Fund were then allocated to the Committee and the Democratic National Committee. See 11 C.F.R. § 102.17. Using its comprehensive compliance and vetting procedures, the Committee examined each contribution received from the Obama Victory Fund to ensure that it was not excessive or otherwise unlawful. Any excessive or unlawful contributions transferred from the Obama Victory Fund were promptly refunded in accordance with the Commission's regulations. The Complaints present no evidence to suggest that the Committee did not comply at all times with the Commission's regulations, or that it ever knowingly solicited, accepted, or received excessive contributions.

B. Resolution of Excessive Contributions Cited in Complaints

The Complaints allege that the Committee accepted excessive contributions from 592 individuals. In fact, of the 592 named contributors, only 82 individuals made excessive contributions to the Committee. Any excessive contributions have been refunded in a manner consistent with the Commission's regulations. All of the necessary refunds were made by December 31, 2008. The table attached as Exhibit A includes the names and addresses of all of the individuals named in the Complaints and the refund amount, if any.

Given the unprecedented scope of the Committee's fundraising, Complainants speculate that the Committee must have acted in violation of federal law, and call for further investigation of the Committee's finances and reporting. Yet unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true, and

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provide no independent basis for investigation. See Commissioners Mason, Sandstrom, Smith and Thomas, Statement of Reasons, MUR 4960 (Dec. 21, 2001).

The Committee's comprehensive vetting and compliance procedures speak for themselves. Not only has the Committee complied with federal law, but it has far surpassed what is required by the Act and the regulations. In every case, the Committee has used best efforts to ensure its full compliance with the Commission's requirements. The Committee has fully addressed each of the specific contributions cited in the Complaints, and Complainants present no evidence to further support their allegations against the Committee.

For the foregoing reasons, Respondents respectfully request that the Commission dismiss the Complaints and take no further action.

Very truly yours,


Robert H. Bauer
Rebecca H. Gordon

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